Health Insurance All-Provider Meeting
Medicaid Personal Assistance Services and Private Duty Nursing
Wednesday 25, 2008
9:00-4:00

Attendees:
Lorna Palin, Mike Mayer, Ryan Jacobsen, Michelle Wood, Carolyn Anderson, Dawna Brinkel, Karen Diehl, Carrie Schaff, Terry Flamand, Connie Bremner, Kate Hurley, Patty Rigney, Jeff Lustgraaf, Roxeanne Settera, Kris Carlson, Cheryl Hartman, Darren Capeheart, Steve Richards, Hary Wade, Tami Hoar, Connie Leveque, Allicyn Wilde, Alan "Bubba" Alsup, Bruce Kramer, Katie Spaid, James Driggers, Kelly Williams, Abby Hulme.

Call-In Attendees:
Julie Sonderegger, Lynda Adams, Evelyn Havskjold, Christine Mays, Nadine Sullivan, Chum Stolem, Beth Anderson and Kelly Reynolds

Meeting Overview
The objective of the meeting is twofold. In the morning session the Department will outline its plan to implement the health insurance for health care worker initiative and distribute the funding allocated in the 2007 legislative session. The afternoon session includes representatives from the insurance sector and insurance laws and regulation to address employer questions and concerns and assist agencies in implementing a health insurance plan for direct care workers.

Overview and History
Overview
Abby provided a brief background on the initiative, which began with a work group made up of providers and other stakeholders prior to the 2007 legislative session. The 2007 legislators funded the initiative and the Department reconvened the group in January 2008 to provide direction and support in implementing the initiative. The work group has met monthly since January. Meeting notes and handouts can be found on the Health Care for Health Care Workers website at:
http://www.dphhs.mt.gov/sltc/services/communityservices/HCWorkers/Index.shtml

Department's Application Process
Abby reviewed the "Overview" PowerPoint presentation, which provides an overview of the imitative and an outline of the Department's application and reporting requirements.

Points of clarification and discussion from the PowerPoint included:

Funding for this initiative was allocated through house bill 2 beginning January 1, 2009 for six months. The Department has included funding for health insurance in the EPP request to maintain funding beyond the initial six-months.

A worker that is eligible to receive the Department funding must work at least 50% of their time in Medicaid personal assistance or private duty nursing services. Personal assistance services include agency-based, self-direct, and HCBS personal assistance services. HCBS homemaker, respite, and habilitation aide are not included in the eligibility criteria. A worker has 90 days to meet the eligibility criteria before the agency will no longer be able to receive Medicaid reimbursement for that worker.

Funding Distribution
The funding will be distributed amongst all of the providers who submit approved applications to the Department. An agency is eligible to receive funds relative to the portion of Medicaid PAS and PDN service they provide.

There was some discussion about the minimum number of hours a worker must work to be able to insure the workers. The industry standard states that an employee must work a minimum 20 hours per week or more. However, each agency will be responsible for defining eligibility for insurance.

Agencies must submit monthly and quarterly reports to the Department to document insurance coverage expenditures. The monthly reports will confirm the number of workers who are enrolled in health insurance. The quarterly reporting will require a 90-day look back on the number of insured workers who meet the Department's eligibility criteria and thus are eligible to receive Medicaid funding.

Agencies that do not opt into the January 2009 funding will have an opportunity to opt into the funding at a later date. Application 1 will provide the Department with more detail about agency intent to participate. This information will be applied to the final distribution formula to ensure the necessary funds are withheld for agencies that may opt in at a later date. The next opt-in date will most likely be July 1, 2009.

An agency's share of the funding will be evaluated on an annual basis based on the share of Medicaid PAS and PDN services the agency provides. The Department plans to distribute funds on a monthly basis through a gross adjustment. This distribution method may change at a later date.

Feedback
A recommendation was made to provide agencies with an opportunity to provide comments and raise questions as the application process moves forward. A link to Abby's email will be included on the website and providers were encouraged to provide comments and questions as needed. Abby will provide updates on the website with responses to common questions and concerns.

There was some discussion about whether agencies might be able to get a better insurance rate by pooling together. Caroline with AAA Residential in Missoula would like to work with other agencies to figure something out. Agencies may contact her to work on this idea.
Application

The Departments application for the funding initiative has two steps. The first step is to submit Application 1. Every Medicaid PAS and PDN provider is required to submit an application, regardless of whether they plan to participate in the funding. Application 1 is due to the Department by July 25. In August the Department will send notification letters to agencies who opt into the funding notifying them of the maximum monthly gross adjustment they are eligible to receive. This allocation will be based on the units an agency has billed in fiscal year 2008, as reported in Application 1. If an agency anticipates a change in their Medicaid utilization for fiscal year 2009 they should notify Abby.

Application 2 is currently in a draft state and will be submitted once an agency decides on an insurance carrier and plan. Application 2 must be submitted by December 1st. If an agency is unable to meet the Department's benchmark standards they will need to receive approval from the Department for an alternative plan prior to submitting Application 2.

Abby reviewed the timeline with the group. A few agencies provided feedback on the timeline. They have found that it is difficult to get health surveys returned. Bubba suggested that agencies begin working with their agent soon and to make sure to provide the agent with the specific information about this initiative.

Agency Check-in
The group checked in with the participants on the phone to identify if their agency was planning on participating in the funding and what challenges or questions they had.

Progressive is unsure whether they will participate. They still have to figure out a way to carve out the employees in Montana in order to make this happen.

Phillips County Hospital PALS plans to participate in the funding. They already have a plan that meets the Department benchmarks.

Fort Belknap does not plan to participate because the number of Medicaid employees they have and hours they work is very limited.

ASI is unsure whether they will participate. Deanna is concerned how smaller agencies will participate. A majority of ASI's workers work 40 hours, but the agency will not receive funding to cover them all.

Personal Touch plans to participate.

Health Savings Accounts and Health Reimbursement Accounts
The Department's health insurance benchmarks were established as a minimum standard that a health insurance plan must meet to be eligible to receive Medicaid funding. Feedback from work group members is that more flexibility is necessary in order to find an affordable plan. Thus, the Department has agreed to consider other plans, so long as the $450 in insurance funding is distributed to the worker. If an agency cannot find an insurance plan that meets the benchmarks they have a couple of options. They can look

for a comparable plan on the market or consider a high deductible plan matched with a health savings account or a health reimbursement account.

Bubba Alsup with Western States Insurance provided an overview of health reimbursement accounts and health savings accounts and how an agency can use them to provide first-dollar coverage with a high deductible plan. He provided a PowerPoint presentation and handouts.

Identifying and addressing employer insurance issues

Overview

Sarah Loble with Crowley Law Firm's Commercial Department and Christina Goe with the Insurance Commissioners Office joined the group to answer questions. Sarah provided an overview of ERISA, which is a federal law that governs employee sponsored benefit plans. ERISA is bi-furcated into welfare and pension plans. A lot of the provisions an employer may be familiar with apply to pension plans and not to the welfare arena. Sarah emphasized that there are many other laws, such as HIPPA, COBRA, etc. that relate to employee benefit plans. The thing to keep in mind is that unless an employer is exempt from ERISA you need to keep it in mind so that you comply with it.

There are also laws the regulate insurance, specifically, and employers must comply with state insurance law and regulations. If an employer offers self-funded insurance they fall outside the scope of state regulations, but not ERISA.

Christina provided information on the role of the insurance commissioner's office. Insurers operating in Montana are regulated by the health insurance commissioner. The state is charged with complying with HIPPA and incorporates the federal guidelines into state regulations. These laws are enforced as to the insurance company, not the employer.

Small and Large Group

Christina commented on differences in insurance for small and large groups. A small employer is defined as 2-50 employees, with an employee being someone who works 30 hours and is not temporary or seasonal. An employer can go to 20 hours of work if the standard is applied uniformly. If an employer is small group the insurance carrier can apply minimum contribution limits (unless legal reason to exclude). There is also be a participation minimum that a certain number of eligible workers participate in the insurance. This is often set at 75% by the insurance carrier.

In the small employer arena there is guaranteed issue to employer, which means the insurance carrier must issue to the employer as long as the guidelines for contribution and participation are met. A small employer can't be turned down for coverage. There is also a requirement to insure the entire group; however there could be different insurance for different classes. If a small group is insured through an association the laws are different (the definition in small group law that association is considered large group).

Worker Classification
Sarah commented on the considerations for employers deciding whether to classify their workers. State law doesn't prohibit employers from classifying workers, but an employer can't have a classification based on health status. Every employer is different and it depends on the category of workers you have now as to how you might classify. Sarah suggested that employers consider the message presented to workers when classifying so everyone understands that classifying is a good plan. The reason this message is important legally is that you don't want workers to believe they are discriminated against because that may put the employer at risk.

There is an alphabet soup of laws that address discrimination. This includes, but is not limited to ERISA, which states that you can't interfere with an individual's right to receive benefits. Whenever you create a class and give benefits Sarah suggest that you look at the big picture. The more an employer classifies workers the more you expose yourself to potential disgruntled employees. In summary, Sarah comments that employers should not assume that they can't participate in insurance because of the law, rather they should make sure they look at the classification carefully before deciding whether to particpate.

Sarah also explained that ERISA lets employers design insurance plans as they wish and to work with an insurance agent. The agent, in turn, is regulated by other laws and regulations. There are insurance agents and insurance consultants who have relationships with attorneys and benefits advisors. Sarah encouraged employers to seek advice and know where the advice is coming from.

Sarah suggested that employers considering classing workers think of ways there is a legitimate business reason for making the distinction. Geographic location, funding source, etc don't have to do with the specifics of age, race, gender, etc. and are therefore business reasons to class workers.

A question was raised about whether you have to educate all of your employees about insurance. Sarah commented that under ERISA plans you have to inform all of your eligible employees, but practically she recommended it might be better to communicate this with all employees, regardless of eligibility.

A question was raised about whether you can change insurance plans mid-year. The ability to change a plan would need to be a provision within the insurance plan document and depends on the employer contract with the insurance agent. It was recommended that employers word participant agreement so participants understand that the health insurance coverage is contingent on funding that is available.

Agency Check-In
Consumer direct and Nightingale Nursing plan participate. They plan to conduct an initial health survey in July and to use a multi-vendor application to get an initial quote to help them narrow down their options. One challenge they anticipate is getting enough people to sign-up. They plan to get a few PCAs to train up as benefits advisors to help other

PCAs understand the benefits of insurance. They plan to have a solid idea about their insurance plan by October and have workers prepped for the January enrollment. They are also working on positioning people to work up to the hours that will be required for health insurance coverage. They plan to have a separate group for this insurance and to classify such that there will be similar plans, but different premiums depending on the worker type.

Express plans to participate. Their main challenge is classification.

Capitol Opportunity plans to participate. ERISA and portability issue are their main challenges.

Summit plans to participate. They will have to set a separate plan up and plan to meet with their attorney. They will also meet with their insurance agent to establish a timeline for the project.

A Plus plans to participate. They sent out health surveys and are having difficulty getting them back from workers. They are also working on how to classify and make everything work with their current plans.

NICL plans to participate. They have also struggled to get health surveys back from workers.